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APPLICATION NO), 1	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/076,131 02/13/2002		02/13/2002	Babu J. Mavunkel	219002028310	219002028310 9859	
25225	7590	04/19/2004		EXAMINER		
		ERSTER LLP	CHANG,	CHANG, CELIA C		
SUITE 500		TRE DRIVE	ART UNIT	PAPER NUMBER		
SAN DIEC	GO, CA 9	2130-2332	1625			
				DATE MAILED: 04/19/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action 10076.131		Application No.	Applicant(s)						
Examiner Celia Chang 1525 -The MAILING DATE of this communication appears on the cover sheet with the correspondence address THE REPLY FILED 23 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therestore, further action by the applicant is required to avoid bandomment of this application. A proper reply to a inal rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. PERIOD FOR REPLY (check either a) or b)) The period for reply expires 5_months from the maling date of the final rejection. The period for reply expires 5_months from the maling date of the final rejection. The period for reply expires 5_months from the maling date of the final rejection. The period for reply expires 5_months from the maling date of the final rejection. The period for reply expires 5_months from the maling date of the final rejection. The period for reply expires 5_months from the maling date of the final rejection. The period for reply expires 5_months from the maling date of the final rejection. The period for reply expired for reply expired to reply exp	Advisory Action	10/076,131	MAVUNKEL ET AL.						
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GROUP 1200 /6			PRIMARY EXAMINER						

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Application/Control Number: 10/076,131

Art Unit: 1625

--ATTACHMENT TO ADVISORY—

The amendment and remarks filed in Paper No. 8, dated Feb. 23, 2004 have been considered carefully but are deemed to be not persuasive and will not be entered for the following reason:

- 1. Because many arguments resulted from which set of specification was correct and applicants did not follow MPEP in filing a substituted specification such arguments at this late stage of prosecution raised new issues. Therefore, the amendments based on such arguments will not be entered for reconsideration.
- 2. The amendments did not correct all the 112 issues as well as obviate the art rejection. See for example, in proposed new claim 39, it reads R4 is an "aryl *including one or more heteroatoms selected from O,S, and N...*" Not only it is unclear as to what this including mean, substituted? Ring heteroatom? Etc. It was given the broadest interpretation thus will read on compounds of RN 562082-85-3 since both heteroinclusion in the ring and as substituents exist. Arguments presented by applicants are based upon "what" applicants are considered as inclusive or exclusive of the newly substituted specification. Because the specification was not even verified at the time the second office action was issued, such arguments must be considered as new issues. Therefore, the amendments based on such arguments will not be entered for reconsideration.

CEILA CHANG PRIMARY EXAMINER GROUP 1200 (C >>>